

THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

PAUL J. WASSEL, JR.,

Plaintiff,

v.

ERIC RICHARD THORBECK, et al.,

Defendants.

:
: CIVIL ACTION NO. 3:22-CV-00145
: (JUDGE MARIANI)
: (Magistrate Judge Saporito)
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ORDER

AND NOW, THIS 16th DAY OF JUNE 2023, upon *de novo* review of Magistrate Judge Joseph F. Saporito's Report and Recommendation ("R&R") (Doc. 11), Plaintiff's objections thereto (Doc. 12), and all relevant documents, **IT IS HEREBY ORDERED THAT:**

1. Plaintiff's objections (Doc. 30) are **OVERRULED**.
2. The R&R (Doc. 11) is **ADOPTED** for the reasons set forth therein.
3. Plaintiff's Complaint (Doc. 1) is **DISMISSED**:
 - a. Plaintiff's conditions of confinement claims related to his pretrial detention are **DISMISSED WITHOUT PREJUDICE**;
 - b. Plaintiff's claims against Pike County are **DISMISSED WITHOUT PREJUDICE** to the extent Plaintiff seeks to impose liability pursuant to *Monell v. Department of Social Services*, 436 U.S. 658 (1978);¹

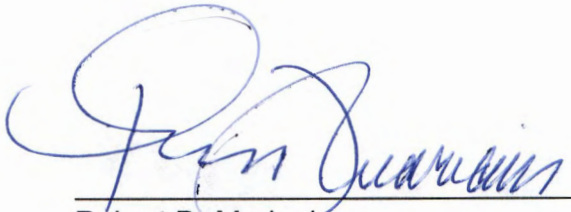
¹ With his objections, Plaintiff states that he is asserting an improper training claim against Pike County. (Doc. 12 at 11.) In some circumstances, a failure to train claim is cognizable under *Monell*. See,

c. The Court **ABSTAINS** from exercising jurisdiction over Plaintiff's 42

U.S.C. § 1983 claims for injunctive relief;²

d. The remainder of Plaintiff's claims are **DISMISSED WITH PREJUDICE**.

4. **No later than twenty-eight (28) days** from the date of this Order, Plaintiff may file an amended complaint limited to 1) claims regarding prison conditions while incarcerated as a pretrial detainee, and 2) *Monell* liability against Pike County.
5. Failure to timely file an amended complaint will result in the Court directing the Clerk of Court to close this case.



Robert D. Mariani
United States District Judge

e.g., Johnson v. City of Philadelphia, 975 F.3d 394, 403 (3d Cir. 2020) (explaining limited nature of *Monell* claim based on failure to train or supervise and affirming dismissal where plaintiff did not plausibly plead such a claim).

² Magistrate Judge Saporito identifies the *Younger* Abstention Doctrine and alternative bases for dismissal of Plaintiff's § 1983 claims for injunctive relief. (See Doc. 11 at 23-26.) At the time Magistrate Judge Saporito issued the R&R, Defendant was awaiting sentencing. (*Id.* at 2.) State court proceedings are ongoing in that Defendant's appeal is pending in the Superior Court of Pennsylvania. See *Commonwealth v. Wassel*, Docket No. 2378 EDA 2022.